

91st Legislative Session – 2016

Committee: Senate State Affairs

Monday, February 22, 2016

P - Present
E - Excused
A - Absent

Roll Call

P Hunhoff (Bernie)
P Sutton
P Brown
P Holien
P Otten (Ernie)
P Soholt
P Tieszen
P Solano, Vice-Chair
P Cammack, Chair

OTHERS PRESENT: See Original Minutes

The meeting was called to order by Senator Gary Cammack, Chair.

MOTION: TO APPROVE THE MINUTES OF FRIDAY, FEBRUARY 19, 2016

Moved by: Brown
Second by: Holien
Action: Prevailed by voice vote.

SB 162: create the State Board of Internal Control and to declare an emergency.

Presented by: Matt Michels, Lieutenant Governor
Others: Grace Kessler, Governor's Office

MOTION: AMEND SB 162

162fb

On page 3, line 2, of the printed bill, after "agencies" insert "excluding the Unified Judicial

System".

On page 3, line 3, after "agencies" insert "excluding the Unified Judicial System".

On page 3, between lines 3 and 4, insert:

"The Unified Judicial System may implement the code of conduct and conflict of interest policy in accordance with the code of judicial conduct and employee policies utilized within the Unified Judicial System".

On page 3, line 18, after "agency" insert "to a nonstate agency".

Moved by: Brown
Second by: Holien
Action: Prevailed by voice vote.

MOTION: DO PASS SB 162 AS AMENDED

Moved by: Sutton
Second by: Brown
Action: Prevailed by roll call vote. (9-0-0-0)

Voting Yes: Hunhoff (Bernie), Sutton, Brown, Holien, Otten (Ernie), Soholt, Tieszen, Solano, Cammack

SB 100: enhance South Dakota.

Presented by: Senator Brown
Proponents: Jeff Carmon, Centurylink (Handout: #1)
Greg Dean, South Dakota Telecommunications Association
Bill Van Camp, AT&T
Drew Duncan, Verizon Wireless
Chris Nelson, Public Utilities Commission
Julie Johnson, Aberdeen, self
David Owen, SD Chamber of Commerce & Industry

MOTION: AMEND SB 100

100ja

On the printed bill, delete everything after the enacting clause and insert:

" Section 1. That § 1-16G-56 be amended to read:

1-16G-56. Terms used in §§ 1-16G-56 to 1-16G-68, inclusive, mean:

- (1) "Board," the Board of Economic Development;
- (2) "Broadband telecommunications network facilities," the electronics, equipment, transmission facilities, fiber optic and copper cables and any other property capable of transmission speeds ten megabits per second of download speed and one megabit per second of upload speed;
- (3) "Commissioner," the commissioner of the Governor's Office of Economic Development;
- ~~(3)~~(4) "Completed the project" or "completion of the project," the first date when the project is operational;
- ~~(4)~~(5) "Construction date," the first date earth is excavated or a contractor has initiated work for the purpose of constructing a new or expanded facility or the first date new equipment is located on the project site or existing equipment is removed from the project site for the purpose of equipment upgrades, whichever occurs first;
- ~~(5)~~(6) "Data center," any facility established for the purpose of processing, storage, retrieval, or communication of data;
- ~~(6)~~(7) "Department," the Department of Revenue;
- ~~(7)~~(8) "Equipment upgrades," the installation of new equipment or the replacement or improvement of existing equipment, which is subject to the sales or use tax imposed by chapters 10-45 or 10-46 or contractor's excise tax imposed by chapters 10-46A or 10-46B;
- ~~(8)~~(9) "GOED," the Governor's Office of Economic Development;
- ~~(9)~~(10) "New or expanded facility," a new building or structure, or the expansion, renovation, or retrofitting of an existing building or structure, which is subject to the contractor's excise tax imposed by chapters 10-46A or 10-46B;
- ~~(10)~~(11) "Person," any individual, firm, copartnership, joint venture, association, cooperative, nonprofit development corporation, limited liability company, limited liability partnership, corporation, estate, trust, business trust, receiver, or any group or combination acting as a unit;
- ~~(11)~~(12) "Project," a new or expanded facility with a project cost which exceed twenty

million dollars, or equipment upgrades with a project cost which exceed two million dollars. A project includes laboratory and testing facilities, manufacturing facilities, data centers, power generation facilities, power transmission facilities, broadband telecommunication network facilities, agricultural processing facilities, wind energy facilities, and facilities defined by GOED as targeted industries. A project does not include any building or structure:

- (a) Used predominantly for the sale of products at retail, other than the sale of electricity at retail, to individual consumers or other than to provide telecommunication service as defined in § 10-45-1.17;
 - (b) Used predominantly for residential housing or transient lodging;
 - (c) Used predominantly to provide health care services;
 - (d) Used predominantly for the transportation or transmission of natural gas, oil, or crude oil by means of a pipeline; or
 - (e) That is not subject to ad valorem real property taxation or equivalent taxes measured by gross receipts;
- ~~(12)~~(13) "Project cost," the amount paid by the project owner in money, credits, property, or other consideration associated with a project including, without limitation, land, labor, materials, furniture, equipment, fees, or fixtures;
- ~~(13)~~(14) "Wind energy facility," any new facility or facility expansion that:
- (a) Consists of a commonly managed integrated system of towers, wind turbine generators with blades, power collection systems, and electric interconnection systems, that convert wind movement into electricity, and is subject to the tax imposed by §§ 10-35-18 and 10-35-19; and
 - (b) The construction of which is subject to contractors' excise tax pursuant to chapter 10-46A or 10-46B.

Section 2. That § 1-16G-61 be amended to read:

1-16G-61. Any person that has timely filed the application and is holding a permit issued by GOED, and has completed the project, shall file an affidavit for reinvestment payment with GOED.

The affidavit for reinvestment payment shall contain the following information:

- (1) The project owner's name and contact information;
- (2) The general description of the project;
- (3) The date of completion of the project;
- (4) The final project costs;
- (5) The amount of South Dakota sales tax, use tax, and contractors excise tax paid for the

- construction of the project;
- (6) The location of the project;
 - (7) The legal description of the project location;
 - (8) A list of the contractors and subcontractors that performed work on the project;
 - (9) If the reinvestment payment was assigned or transferred, the name and address of the person to whom the reinvestment payment has been assigned or transferred; and
 - (10) Any other information that GOED may require.

The affidavit for reinvestment payment shall be on a form prescribed by the commissioner. The affidavit for reinvestment payment shall be signed by the project owner and signed under oath before a notary public. No affidavit for reinvestment payment may include more than one project.

In addition, a project for broadband telecommunication network facilities broadband infrastructure funded in part using federal funds, shall attest to the satisfaction of the conditions of such grant. The attestation shall satisfy any requirement by GOED that the project would not have been undertaken but for the reinvestment payment."

Moved by: Solano
Second by: Otten (Ernie)
Action: Prevailed by voice vote.

MOTION: DO PASS SB 100 AS AMENDED

Moved by: Solano
Second by: Otten (Ernie)
Action: Prevailed by roll call vote. (9-0-0-0)

Voting Yes: Hunhoff (Bernie), Sutton, Brown, Holien, Otten (Ernie), Soholt, Tieszen, Solano, Cammack

MOTION: AMEND TITLE OF SB 100

100jta

On page 1, line 1, of the printed bill, delete everything after "Act to" and insert "enhance South Dakota economic development through broadband infrastructure improvements."

Moved by: Solano
Second by: Otten (Ernie)
Action: Prevailed by voice vote.

SB 151: lower the state sales and use tax on most food items, to increase the rate of taxation for the sales and use tax on certain goods and services, to increase the amusement device tax, and to increase the per student allocation in the state aid formula.

Presented by: Senator Sutton (Handout: #2)

Proponents: Mitch Richter, South Dakota United School Association
Robert Monson, School Administrators of South Dakota

Opponents: Jim Terwilliger, Bureau of Finance & Management
David Owen, SD Chamber of Commerce & Industry
Shawn Lyons, South Dakota Retailers Association

MOTION: AMEND SB 151

151ca

On page 15, after line 18 of the printed bill, insert:

" Section 22. It is the intent of the Legislature that from the proceeds of this Act, forty million dollars shall be dedicated to reducing the property tax levies for general education for all classes of property."

Moved by: Hunhoff (Bernie)
Second by: Sutton
Action: Prevailed by voice vote.

MOTION: DO PASS SB 151 AS AMENDED

Moved by: Hunhoff (Bernie)
Second by: Sutton
Action: Was not acted on.

MOTION: SUBSTITUTE MOTION DEFER SB 151 TO THE 41ST LEGISLATIVE DAY

Moved by: Brown
Second by: Solano
Action: Prevailed by roll call vote. (7-2-0-0)

Voting Yes: Brown, Holien, Otten (Ernie), Soholt, Tieszen, Solano, Cammack

Voting No: Hunhoff (Bernie), Sutton

SB 99: accommodate legislation on Medicaid and medical services.

Presented by: Senator Brown

MOTION: TO TABLE SB 99

Moved by: Solano

Second by: Otten (Ernie)

Action: Prevailed by roll call vote. (9-0-0-0)

Voting Yes: Hunhoff (Bernie), Sutton, Brown, Holien, Otten (Ernie), Soholt, Tieszen, Solano, Cammack

SB 101: accommodate legislation relating to education in South Dakota.

Presented by: Senator Brown

MOTION: TO TABLE SB 101

Moved by: Solano

Second by: Otten (Ernie)

Action: Prevailed by roll call vote. (9-0-0-0)

Voting Yes: Hunhoff (Bernie), Sutton, Brown, Holien, Otten (Ernie), Soholt, Tieszen, Solano, Cammack

SB 124: enhance South Dakota.

Presented by: Senator Brown

MOTION: DO PASS SB 124

Moved by: Sutton

Second by: Soholt

Action: Prevailed by roll call vote. (9-0-0-0)

Voting Yes: Hunhoff (Bernie), Sutton, Brown, Holien, Otten (Ernie), Soholt, Tieszen, Solano, Cammack

SB 125: accommodate legislation relating to education in South Dakota.

Presented by: Senator Brown

MOTION: DO PASS SB 125

Moved by: Solano

Second by: Soholt

Action: Prevailed by roll call vote. (9-0-0-0)

Voting Yes: Hunhoff (Bernie), Sutton, Brown, Holien, Otten (Ernie), Soholt, Tieszen, Solano, Cammack

SB 126: accommodate legislation on medical services.

Presented by: Senator Brown

MOTION: DO PASS SB 126

Moved by: Solano

Second by: Sutton

Action: Prevailed by roll call vote. (8-1-0-0)

Voting Yes: Hunhoff (Bernie), Sutton, Brown, Holien, Soholt, Tieszen, Solano, Cammack

Voting No: Otten (Ernie)

SB 128: guarantee consumer choice.

Presented by: Senator Brown

MOTION: TO TABLE SB 128

Moved by: Solano

Second by: Sutton

Action: Prevailed by roll call vote. (9-0-0-0)

Voting Yes: Hunhoff (Bernie), Sutton, Brown, Holien, Otten (Ernie), Soholt, Tieszen, Solano, Cammack

SB 155: improve public safety.

Presented by: Senator Heineman (Phyllis)

MOTION: TO TABLE SB 155

Moved by: Solano
Second by: Otten (Ernie)
Action: Prevailed by roll call vote. (9-0-0-0)

Voting Yes: Hunhoff (Bernie), Sutton, Brown, Holien, Otten (Ernie), Soholt, Tieszen, Solano, Cammack

MOTION: ADJOURN

Moved by: Brown
Second by: Otten (Ernie)
Action: Prevailed by voice vote.

Rena Ortbahn
Committee Secretary

Gary Cammack, Chair